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The Edinburgh Legal History Blog

Scottish Legal History Group Conference, 2013

Posted on [October 9, 2013](#) by [Karen Baston](#)

The Scottish Legal History Group recently hosted its 33rd annual conference in the pleasant surroundings of the Advocates Library's Reading Room.

As seems to be traditional, the excellent selection of papers was presented in chronological order. Most were works in progress and, for this early career researcher at least, this gave a valuable insight into how research develops and how presenting ideas to an interested audience helps transform them into books, articles, or chapters. The Group also provides an excellent opportunity for students and early career scholars to meet more established scholars in a friendly and informal setting.*

Dr Alice Taylor (KCL) started the day with her paper on 'Developments in thirteenth-century justice through the eyes of Paisley Abbey' which explored the records preserved in the Cartulary of Paisley Abbey. Taylor focussed on three stages of a court case involving inheritance rights and church lands in 1270, 1271, and 1273 to look at how Scottish brieve and inquest procedures changed in the early thirteenth century. Surviving records from Paisley and elsewhere give evidence for quick and effective mechanisms of justice being in use in medieval Scotland.

Professor John Blackie (Strathclyde) considered if George Mackenzie's assertion that procedure in Scots law ultimately came from Germany had any validity in his paper, 'Seventeenth century procedure: "we have borrowed from Saxony ... most of our ... forms"'. Procedures from Saxony spread across Europe from the sixteenth century in the wake of its reforming legislation of 1572. These reforms were inspired and interpreted by jurists in Saxony including Matthaeus Wesenbeck and Benedict Carpzov and their influence can indeed be found in Scots law but the extent of this is yet to be determined.

Professor Hector MacQueen (Edinburgh) showed how copyright law developed after the Statute of Anne and how Scottish booksellers operated in Scotland and in London in his paper, 'The War of the Booksellers: Natural Law, Equity and Literary Property in the Eighteenth Century'. In *Hinton v Donaldson and others* (1773) the Court of Session in Edinburgh ruled that Scottish booksellers had the right to reprint books no longer protected by the Statute and this decision went on to influence English law a year later. Prominent legal counsel acted in *Hinton* including Allan Maconochie, Alexander Murray, David Rae, James Boswell, John MacLaurin, and Ilay Campbell. All, with the exception of Boswell, were later raised to the Bench.

Dr Brian Dempsey (Dundee) considered the Church of Scotland's influence on mid-nineteenth century marriage procedure in 'Opposition to proposed legislation to "modernise" Scottish marriage law, 1847/49'. Although several key moments in time (e.g. the Council of Trent, the Hardwicke Bill, the Westminster Bills of 1847-49, and a Royal Commission of 1865-68) all had the potential to change marriage law in Scotland, none of them did. In the case of the proposed reforms on 1847 to 1849, this was mainly because, the Church of Scotland mobilised and sent 239 petitions in against the 1848 Bill that it saw as destroying traditional church marriage since it allowed for registry office marriages. Dempsey is conducting research to determine the party politics of the matter and the motivations of the Church of Scotland.

Dr Robert Shiels finished the day with his study of 'The Great War and Parliament House'. Edinburgh's lawyers and legal clerks were generally keen to serve in the armed forces during the First World War and junior clerks

were especially encouraged to join up. All levels of the profession participated resulting in depleted legal offices and a depressed atmosphere in Parliament House. Parliament House itself experienced a very real threat when Zeppelins dropped bombs on Edinburgh. Although the proportion of members of the legal profession who died in service was relatively small (approximately 75) and comparable to numbers for other professions, the impact of the war caused a decline in the number of legal personal that lasted well into the 1920s.

The SLHG's secretary, Professor John Finlay, revealed at the AGM that five speakers have already been lined up for next year's meeting on Saturday, 4 October 2014. The date is already in my diary!

*I had to forgo the traditional pre-lunch sherry this year since I'm participating on a [charity fundraiser](#) for which I have agreed to 'Go Sober' for the month of October.

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